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## **Unwanted Faxes – an FCC Consumer Fact Sheet**

A telephone facsimile, or “fax” machine is able to send and receive data (text or images) over a telephone line. The Telephone Consumer Protection Act of 1991 (TCPA) and Federal Communications Commission (FCC) rules prohibit sending unsolicited advertisements to a fax machine without the recipient’s prior express permission or unless the sender has an established business relationship with the recipient. This prohibition applies to fax machines at both businesses and residences.

An “unsolicited advertisement” is defined as “any material advertising the commercial availability or quality of any property, goods, or services which is transmitted to any person without that person’s prior express invitation or permission.”

### **Junk Fax Prevention Act of 2005**

On July 9, 2005, Congress enacted the Junk Fax Prevention Act. The Act amends the TCPA by permitting businesses or entities to send unsolicited advertisements to consumers and businesses with whom the sender has an established business relationship. It also requires senders of fax advertisements to include a notice and contact information on the first page of the fax informing the recipient how to “opt-out” of any future fax advertisements from the sender.

### **FCC Regulations**

The FCC has additional rules regulating the delivery of fax advertisements. The rules state:

- The business, person, or entity on whose behalf the fax is being sent must identify itself in the top or bottom margin of each page or on the first page of the fax message, and must include its telephone number and the date and time the fax is sent;
- The person or business on whose behalf an unsolicited fax advertisement is sent is liable even if they did not physically send the fax themselves. A fax broadcaster (the person or entity transmitting messages to a fax machine on another person’s behalf) may also be liable if it has “a high degree of involvement” in the sender’s fax messages, such as supplying the fax numbers to which a message is sent;

- If a fax broadcaster is “highly involved” in the sender’s fax messages, the fax broadcaster must provide its name on the fax;
- Faxes sent to fax servers and personal computers are covered by the Junk Fax Prevention Act.

### **How the FCC Can Help**

The FCC has taken numerous enforcement actions, including the issuance of citations and fines, against companies for violations and suspected violations of the TCPA’s prohibition against unsolicited faxes. If you have received unsolicited faxes you are encouraged to contact the FCC regarding the incident(s). You may need to provide documentation in support of your complaint, such as copies of the fax(es) you received.

If you have received an unsolicited fax or received a fax from someone who does not have a business relationship with you or who has not received your prior express permission, you may file a complaint by completing the FCC’s on-line Consumer Complaint Form at: [www.fcc.gov/cgb/complaints.html](http://www.fcc.gov/cgb/complaints.html), or by calling the FCC’s Consumer Center at 1-888-CALL-FCC (1-888-225-5322) voice or 1-888-TELL-FCC (1-888-835-5322) TTY. You can send a letter summarizing the complaint to:

Federal Communications Commission  
Consumer & Governmental Affairs Bureau  
Consumer Inquiries and Complaints Division  
445 12th Street, SW  
Washington, DC 20554

### **Your Complaint Should Include:**

- Your name, address, and a telephone number where you can be reached during the business day;
- The telephone number through which you received the fax advertisement;
- The property, goods, or services that are advertised on the fax; the name of the business offering such property, goods, or services, if included in the fax; and any telephone numbers or addresses included in the fax;
- A copy of the fax advertisement, if possible, or confirmation that you have retained a copy of the fax;
- As much specific information as possible, including whether you gave the advertiser permission to send faxes or ever did business or have had any other contact with the advertiser.

### **Additional Places to Go for Help**

Consumers have the right to bring a private suit against the violator in an appropriate court within their state. Through a private suit, consumers can either recover the actual monetary loss that resulted from the TCPA violation, or receive up to \$500 in damages for each violation, whichever is greater. The court may triple the damages for each violation if it finds that the defendant willingly or knowingly committed the violation.

